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18 ELI LILLY AND COMPANY

19 **UNITED STATES DISTRICT COURT**

20 **DISTRICT OF NEVADA**

21
22 **ELI LILLY AND COMPANY**

23 Plaintiff,

24 v.

25 **WATSON PHARMACEUTICALS, INC.,**
26 **WATSON LABORATORIES, INC. and**
27 **WATSON PHARMA, INC.,**

28 Defendants.

CIVIL ACTION NO. 2:10-CV-00647

**NOTICE OF VOLUNTARY
DISMISSAL WITHOUT PREJUDICE**

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), Plaintiff Eli Lilly and Company ("Lilly"), by and through their counsel, file this voluntary dismissal without prejudice. On July 21, 2010, Lilly and defendants Watson Pharmaceuticals, Inc., Watson Laboratories, Inc., and Watson Pharma, Inc. (collectively "Defendants") filed a joint motion in *Eli Lilly and Company v. Watson Pharmaceuticals, Inc., et al.*, Civil Action No. 1:10-cv-00549-SEB-WGH (S.D. Ind. filed May 3, 2010), wherein Defendants agreed that they shall not contest jurisdiction or venue in that action. (See Ex. 1 (D.I. 13), ¶5.) The motion was granted on July 22, 2010. (See Ex. 2 (D.I. 14).) In view thereof, Lilly hereby gives notice that the above-captioned action is voluntarily dismissed, without prejudice, against the Defendants.

Respectfully submitted this 6th day of August, 2010.

/s/ Stanley W. Parry

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It is SO ORDERED.


UNITED STATES DISTRICT JUDGE

EXHIBIT 1

EXHIBIT 1

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ELI LILLY AND COMPANY,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 1:10-cv-0549 SEB-WGH
)	
WATSON PHARMACEUTICALS, INC.,)	
WATSON LABORATORIES, INC., AND)	
WATSON PHARMA, INC.,)	
)	
Defendants.)	

**AGREED MOTION TO STAY PROCEEDINGS PENDING FEDERAL CIRCUIT'S
RULING IN *ELI LILLY AND COMPANY* v. *TEVA PHARMACEUTICALS, INC.***

Plaintiff Eli Lilly and Company ("Lilly"), by counsel, and Defendants Watson Pharmaceuticals, Inc., Watson Laboratories, Inc. and Watson Pharma, Inc. ("Watson"), by counsel, hereby request the Court enter an order staying these proceedings pending a decision by the Court of Appeals for the Federal Circuit ("Federal Circuit") in *Eli Lilly and Company* v. *Teva Pharmaceuticals USA, Inc.*, Case No. 1:06-cv-1017-SEB-JMS (the "Lilly/Teva Action") regarding the validity of U.S. Patent Nos. 6,458,811, 6,797,719, and/or 6,894,064 owned by Lilly ("the Lilly patents"). In support of such request, the parties state:

1. On May 3, 2010, Lilly filed its Complaint for patent infringement against Watson in which it alleges that Watson's filing of Abbreviated New Drug Application No. 200825 infringes the Lilly patents, all of which are listed within FDA's Publication entitled "Approved Drug Products with Therapeutic Equivalence Evaluations" (commonly known as the "Orange Book") in connection with Lilly's EVISTA[®] (Raloxifene Hydrochloride) product.

2. In the Lilly/Teva Action, on September 23, 2009, this Court entered its Findings of Fact and Conclusions of Law following a bench trial ("September 23, 2009 Findings") in

which it, in part, held that certain claims in the Lilly patents were invalid for lack of written description. The Lilly patents at issue in the Lilly/Teva Action are the same patents at issue in this case.

3. Cross-appeals of the September 23, 2009 Findings, including Lilly's appeal of this Court's determination that the Lilly patents are invalid, are fully briefed and oral argument before the Federal Circuit panel occurred on June 7, 2010.

4. The parties agree that due to the overlapping issues in this case and in the Lilly/Teva Action, in the interest of judicial economy and efficiency, these proceedings should be stayed pending a decision by the Federal Circuit in the Lilly/Teva Action as to the validity of one or more of the Lilly patents.

5. Watson disputes that jurisdiction and venue for the claims within Lilly's Complaint are proper in the United States District Court for the Southern District of Indiana, but Watson hereby agrees that it shall not contest jurisdiction or venue in this action.

WHEREFORE, the parties request the Court enter an order staying these proceedings pending a decision by the Federal Circuit as to the validity of one or more of the Lilly patents or upon written request to the Court by either party, and for all other proper relief.

Respectfully submitted,

s/ Michael Rabinowitch

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**Attorney for Defendants
Watson Pharmaceuticals, Inc.,
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s/ Jan M. Carroll¹

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**Attorney for Plaintiff
Eli Lilly and Company**

¹ Signed by Michael Rabinowitch pursuant to authority and with consent of counsel.

EXHIBIT 2

EXHIBIT 2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ELI LILLY AND COMPANY,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 1:10-cv-0549 SEB-WGH
)	
WATSON PHARMACEUTICALS, INC.,)	
WATSON LABORATORIES, INC., AND)	
WATSON PHARMA, INC.,)	
)	
Defendants.)	


ORDER GRANTING AGREED MOTION TO STAY PROCEEDINGS

This matter is before the Court on the parties' Agreed Motion to Stay Proceedings
Pending Federal Circuit's Ruling in *Eli Lilly and Company v. Teva Pharmaceuticals, Inc.*.

The Court, after having considered the matter and being otherwise duly advised, now
finds that the Motion should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that these proceedings
are stayed pending a decision by the United States Court of Appeals for the Federal Circuit in *Eli
Lilly and Company v. Teva Pharmaceuticals USA, Inc.*, Case No. 1:06-cv-1017-SEB-JMS (the
"Lilly/Teva Action") regarding the validity of one or more of U.S. Patent Nos. 6,458,811,
6,797,719, and/or 6,894,064 owned by Lilly or upon written request to the Court by either party.

Dated this 22nd day of July, 2010.


WILLIAM G. HUSSMANN, JR.
Magistrate Judge

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